



Right of Way Procedures, Part II

Tom Childrey, Manager, Right of Way Unit

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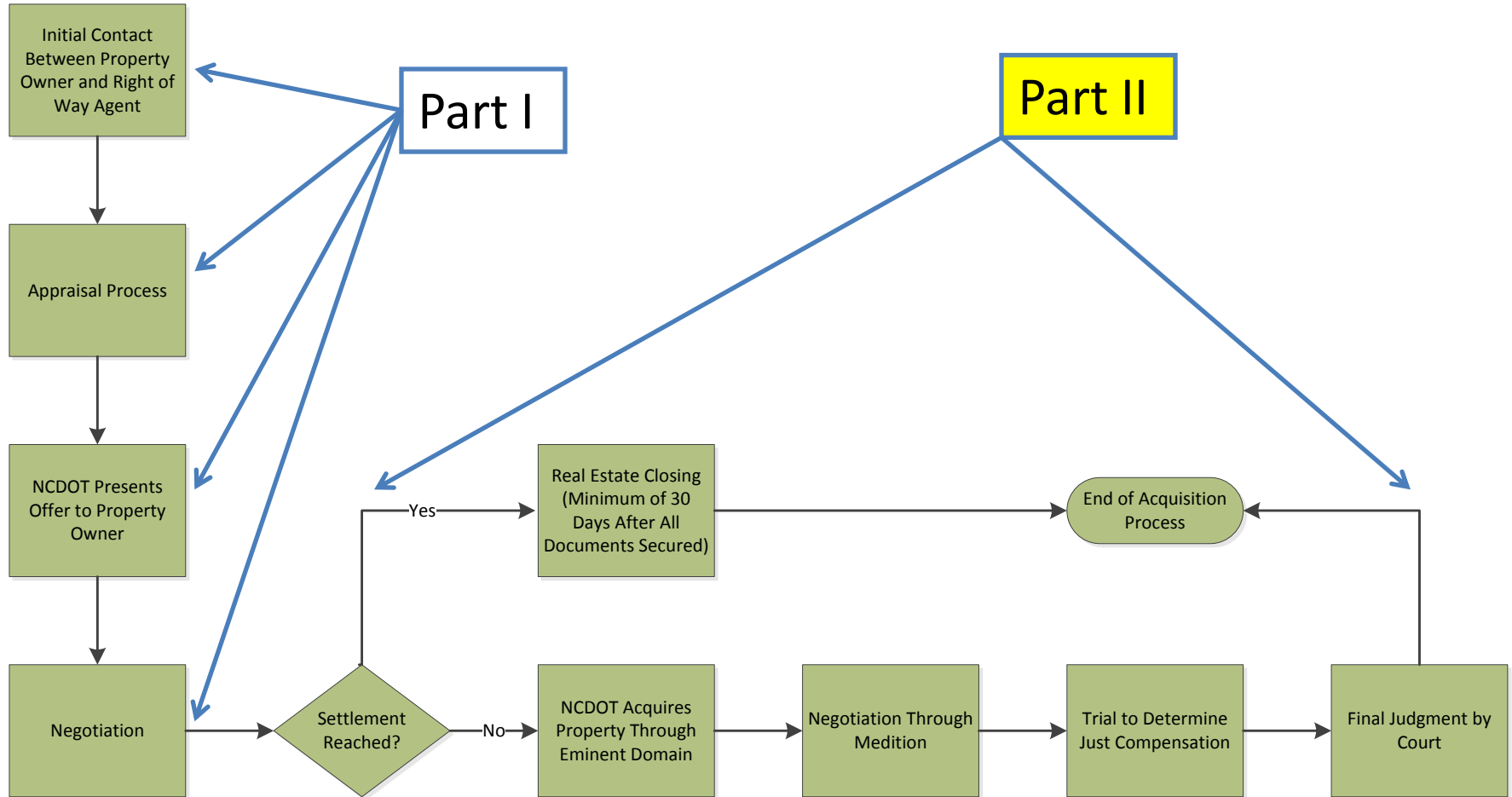
RIGHT OF WAY PROCEDURES

- Last Month's Topics (Part I)
 - Laws & Regulations
 - Process Overview
 - Appraisals
 - Negotiations
- Today's Topics (Part II):
 - Condemnation (Eminent Domain)
 - Trial Experience
 - Settlement Statistics

Overall Project Process



Right of Way Acquisition Process



CONDEMNATION PROCESS

- Legal Services provided by Attorney General's Office
- Two Subsections of AG's office
- Lands/Condemnations
- Contracts

Eminent Domain is
the right of government to acquire
private property for public use without
the landowner's consent upon
payment of just compensation.

What is Just Compensation?

1. highest and best use of property before taking equates to a value
2. highest and best use of property after taking equates to a value

“Just compensation” is the difference between the two values

Highest and Best Use



Department of Justice – Transportation Section

Not Highest and Best Use



Department of Justice – Transportation Section

Taking of Property by NCDOT . . .

- * Must be for public purpose
- * Must pay just compensation

Condemnation Statute

Chapter 136, Article 9, used by NCDOT

**Thousands of condemnation claims at
NCDOT each year.**

**Only 20-25% of these claims require
legal action . . .**



**thanks to efforts of Right of
Way Appraisers and
Negotiators**

CONDEMNATION ACTION

**File COMPLAINT and
DECLARATION OF TAKING in
Superior Court where land located**



COMPLAINT MUST CONTAIN:

1. description of entire tract
2. description of interest taken (i.e., fee simple, drainage easement, etc.)
3. description of area taken
4. listing of all having interest in land
5. listing of liens and encumbrances

*Estimated just compensation is
deposited with Court at time of filing*

“QUICK-TAKE” PROCEDURE (PER CHAPTER 136)

***Complaint, Declaration of Taking and
just compensation filed . . .***

***title to land then vests
in NCDOT, and public is
given notice by filing of
action in local Register of
Deeds***





“108” HEARING

**G.S. §136-108 provides
for hearing to resolve
issues other than
damages**

For example...

Lawsuit filed . . .

Answer filed . . .

Map filed . . .

**and all issues except
compensation determined**

NEXT THE TRIAL